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18 Fanita Ranch, L.P.

19 UNITED STATES BANKRUPTCY COURT

20 SOUTHERN DISTRICT OF CALIFORNIA

21 In re

22 FANITA RANCH, L.P., a California limited
23 partnership,

24 Debtor-in-Possession.
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CASE NO. 10-05750-MM11

**NOTICE OF MOTION AND WESTBROOK
FANITA RANCH, L.P. AND FANITA
RANCH, L.P.'S JOINT MOTION FOR
ORDERS (1) APPROVING SETTLEMENT
ALLOWING WESTBROOK'S SECURED
CLAIM AND PROVIDING FOR RELIEF
FROM STAY (2) DISMISSING DEBTOR'S
CROSS COMPLAINT AND GUARANTY
BANK'S COMPLAINT AND (3)
REMANDING WESTBROOK'S CROSS
CLAIMS TO THE SAN DIEGO SUPERIOR
COURT**

Date: October 19, 2010

Time: 9:00 a.m.

Dept: One (1)

Honorable Margaret M. Mann

TO THE HONORABLE MARGARET M. MANN, UNITED STATES BANKRUPTCY JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, CREDITORS, PARTIES IN INTEREST, AND ALL PARTIES REQUESTING SPECIAL NOTICE:

PLEASE TAKE NOTICE that on October 19, 2010 at 9:00 a.m., in Department One (1) of the United States Bankruptcy Court, located at 325 West "F" Street, San Diego, CA 92101, Westbrook Fanita Ranch, L.P. and Fanita Ranch, L.P. will and do jointly move this Court for an orders (1) approving their Joint Motion to Approve Settlement allowing Westbrook's secured claim and providing relief from stay, (2) dismissing the Adversary Proceeding known as *Guaranty Bank v. Westbrook Fanita Ranch, L.P.* et. al., Adv. Proc. No 10-90204 (the "Adversary Proceeding.") and (3) remanding Westbrook's cross claims filed against Guaranty Bank to the San Diego Superior Court .

This motion is supported by this Notice of Motion and Motion, the Declaration of J. Michael Armstrong, a Memorandum of Points and Authorities in Support of Motion, all documents within the file of the above referenced bankruptcy case and in the Adversary Proceeding, all of which are incorporated herein by this reference, and such other oral or documentary evidence that may be presented at the time of the hearing.

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1 By separate order of the Bankruptcy Court memorialized in the Court's Minute Order
2 dated August 23, 2010 (Docket No. 80 in the Adversary Proceeding), any opposition or
3 other response to this motion must be served upon the undersigned and filed in the above
4 captioned case on or before September 22, 2010. If no opposition is received, it can be
5 deemed as consent by the Court to the relief requested herein.

6 A copy of this Notice is filed in the Adversary Proceeding for reference purposes.

7 DATED: August 27, 2010

SOLOMON WARD SEIDENWURM & SMITH, LLP

8
9 By: /s/ Michael D. Breslauer
MICHAEL D. BRESLAUER
10 YOSINA M. LISSEBECK
Attorneys for Defendant, Counterclaimant
11 & Cross-Defendant, Westbrook Fanita Ranch, L.P.

12 DATED: August 27, 2010

LAW OFFICES OF WILLIAM P. FENNELL, APLC

13
14 By: Wm P Fennell
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Proposed Attorneys for Debtor-in-Possession,
16 Fanita Ranch, L.P.

PROOF OF SERVICE

I, Wendy A. Yones, declare as follows:

I am employed in the County of San Diego, State of California; I am over the age of eighteen years and am not a party to this action; my business address is Solomon Ward Seidenwurm & Smith, LLP, 401 B Street, Suite 1200, San Diego, CA 92101, in said County and State. On **August 27, 2010**, I served the following document(s):

NOTICE OF MOTION AND WESTBROOK FANITA RANCH, L.P. AND FANITA RANCH, L.P.'S JOINT MOTION FOR ORDERS (1) APPROVING SETTLEMENT ALLOWING WESTBROOK'S SECURED CLAIM AND PROVIDING FOR RELIEF FROM STAY (2) DISMISSING DEBTOR'S CROSS COMPLAINT AND GUARANTY BANK'S COMPLAINT AND (3) REMANDING WESTBROOK'S CROSS CLAIMS TO THE SAN DIEGO SUPERIOR COURT

on each of the interested parties stated on the attached service list.

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF"): Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On **August 27, 2010**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the e-mail address(es) indicated below:

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☐ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL: On **August 27, 2010**, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows.

☒ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR E-MAIL: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **August 27, 2010**, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or e-mail as follows.

1 ☒ Service information continued on attached page

2 I declare under penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct.

4 Dated: August 27, 2010

By: 
WENDY A. YONES

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PROOF OF SERVICE LIST**VIA NEF & U.S. MAIL**

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ALL OF THE FOLLOWING PARTIES ON THE NEXT PAGE WERE SERVED BY U.S. MAIL

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